

RECORDATION NO. 8374-C
JUL 1 1977-11 25 AM
INTERSTATE COMMERCE COMMISSION



June 28, 1977

RECORDATION NO. 8374-D
JUL 1 1977-11 25 AM
INTERSTATE COMMERCE COMMISSION

Hon. H. G. Homme
Acting Secretary
Interstate Commerce Commission
Washington, D. C. 20423

183-1043
JUL 1 1977
Date
Fee \$
ICC Washington, D. C.

RE: Conditional Sale Agreement made as of June 15, 1976,
filed with the ICC on June 18, 1976, at 2:10 p.m. and
assigned recordation number 8374.

Dear Sir:

Enclosed for filing with and recording by the Interstate
Commerce Commission are eight (8) executed counterparts of a
Second Amendment and Supplement dated as of June 24, 1976 to
the above referenced Conditional Sale Agreement dated as of
June 15, 1976, between SSI Rail Corp., Two Embarcadero
Center, San Francisco, California, 94111, Buyer, and Citibank,
N. A., 399 Park Avenue, New York, New York, 10022, covering
the following railroad equipment:

50 70-ton, 50'6", general service, single sheath boxcars
built by FMC Corporation, numbered APA 1800 through
APA 1849, inclusive.

Identifying marks on all of the foregoing equipment:
The words, "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20C,"
printed on each side of each unit.

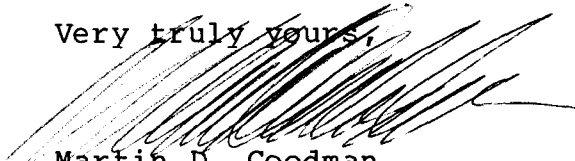
Also enclosed are eight (8) executed counterparts of an
Agreement and Assignment assigning the interest of The Bank
of California, 400 California Street, San Francisco, California,
94104 (which was previously assigned to such bank by FMC
Corporation) to Citibank, N. A. The Conditional Sale
Agreement, as amended, is guaranteed by ITEL Corporation,
One Embarcadero Center, San Francisco, California, 94111,
the parent company of SSI Rail Corp.

Mr. Homme
June 28, 1977
Page 2

Also enclosed is our check in the sum of \$20.00, payable to the Interstate Commerce Commission, being the prescribed fee for filing and recording the foregoing documents.

Please return all additional copies of the enclosed counterparts (with recordation data stamped thereon) not required by the Interstate Commerce Commission to the representative of the office of Sullivan and Worcester, Attorneys at Law, Washington, D. C., who will be delivering this letter on our behalf.

Very truly yours,



Martin D. Goodman
Secretary

MDG:md

AGREEMENT AND ASSIGNMENT (the "Assignment") made as of this 24th day of June, 1977, between The Bank of California, N. A., a national banking association, (hereinafter called "Assignor") and Citibank, N. A. (hereinafter called "Assignee");

W I T N E S S E T H:

Whereas, FMC Corporation (hereinafter called "Builder") and SSI Rail Corp., a Delaware corporation (hereinafter called "Railroad,") heretofore entered into a conditional sale agreement made as of June 15, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8374 (hereinafter called "the Conditional Sale Agreement,") providing for the construction, sale and delivery by Builder and the purchase by Railroad of fifty (50) 50' 6" 70-ton capacity, general service, single sheath boxcars numbered APA 1800 through APA 1849 inclusive (hereinafter called "the Equipment");

WHEREAS, Builder has delivered and Railroad has accepted the Equipment; and

WHEREAS, the Conditional Sale Agreement has been amended by a First Amendment and Supplement to Conditional Sale Agreement dated as of July 2, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8374-B (the "First Amendment") (the Conditional Sale Agreement and the First Amendment are hereinafter referred to collectively as the "Conditional Sale Agreement, as amended") and the right, title and interest of Builder in and to the Equipment was sold and assigned to Assignor pursuant to an Agreement and Assignment dated as of July 2, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8374-A; and

WHEREAS, Railroad has paid to Builder on July 6, 1976 the payment specified in subparagraph (a) of the first paragraph of Section 3 of the First Amendment and has paid to Assignor the interest on the Conditional Sale Indebtedness as specified in subparagraph (b) of the first paragraph of Section 3 of the First Amendment; and

WHEREAS, Assignor anticipated that all of its right, title and interest in and to the Equipment would be sold and assigned;

NOW, THEREFORE, in consideration of the premises and the sum of \$1,340,490.40 paid to Assignor by Assignee, the receipt and sufficiency of which are hereby acknowledged, and of the covenants herein set forth, the parties agree as follows:

(1)

RECORDATION NO. 8374-D Filed & Recorded

JUL 1 1977 - 11 35 AM

INTERSTATE COMMERCE COMMISSION

1. Assignor hereby sells, assigns, transfers and sets over to Assignee, its successors and assigns, the following:

- (a) All the right, title and interest of Assignor in and to the Equipment subject to the Conditional Sale Agreement, as amended; and
- (b) All right, title, interest, powers, privileges and remedies of Assignor in, to and under the Conditional Sale Agreement, as amended (except payments heretofore made by Railroad to Assignor) including all amounts which may be or become due or owing under the Conditional Sale Agreement, as amended on account of the interest becoming due from Railroad under the Conditional Sale Agreement, as amended;

without any recourse, however, against Assignor for or on account of the failure of Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement, as amended.

2. Assignor hereby warrants to Assignee that it has legal title to the Equipment and good and lawful right to sell the same and that its title to the Equipment is free of all claims, liens, security interests or other encumbrances of any nature, except only the rights of Railroad under the Conditional Sale Agreement, as amended.

3. Assignor hereby agrees that it will from time to time at the Request of Assignee make, execute and deliver all such future instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate to give effect to the provisions set forth herein and more perfectly confirm the right, title and interest hereby assigned and transferred to Assignee or intended so to be.

4. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York, provided, however, that the parties shall be entitled to all the rights conferred by Section 20c of the Interstate Commerce Act.

5. This Assignment may be executed in any number of counterparts, but the counterpart delivered to Assignee shall be deemed to be the original counterpart.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Assignment to be executed in their respective corporate names by their duly authorized officers, and their respective corporate seals to be hereunto affixed and attested, all as of the date first above written.

THE BANK OF CALIFORNIA, N.A.

By Robert W. Severi
its Metropolitan Officer

ATTEST:

Barbara H. Hammond
Its Assistant Secretary
[CORPORATE SEAL]

CITIBANK, N. A.

A. Lassiter VP
Its

ATTEST:

Ellen S. Sarda
Its Staff Officer
[CORPORATE SEAL]

Builder agrees that all of the representations, warranties and covenants made to Assignor shall inure to the benefit of Assignee as though Assignee were the original Assignee in the Agreement and Assignment dated July 2, 1976. Neither such Agreement and Assignment nor this Assignment shall subject Assignee to or transfer or pass or in any way affect or modify the obligations and warranties of Builder under the Conditional Sale Agreement, as amended, or relieve Railroad of its obligations to Builder under article 8 of the Conditional Sale Agreement, as amended, it being understood and agreed that notwithstanding this Assignment all obligations of Builder to Railroad shall remain enforceable by Railroad against and only against Builder.

FMC CORPORATION

By _____
Its _____

ATTEST:

Its
[CORPORATE SEAL]

(3)

City and County of San Francisco)

State of California)

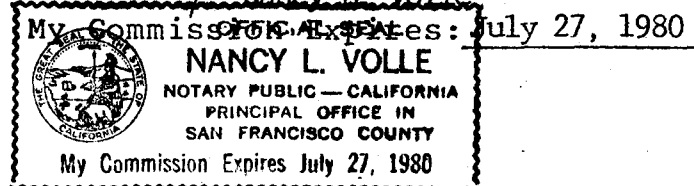
SS:

On this 29th day of June, 1977, before me personally appeared Robert Wm. Serventi, to me personally known, who, being by me duly sworn, says that he is Metropolitan Officer of The Bank of California, N. A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Nancy L. Volle

Notary Public
Nancy L. Volle

[Notarial Seal]



State of New York)
County of New York)

SS:

On this 30th day of June, 1977, before me personally appeared Philip B. Serventi, to me personally known, who, being by me duly sworn, says that he is Vice President of Citibank, N. A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Rosemary Ferguson

Notary Public

[Notarial Seal]

My Commission Expires:

ROSEMARY FERGUSON
Notary Public, State of New York
No. 01EE7274785
Qualified in Queens County
Commission Expires March 30, 1978

SS:

On this _____ day of _____, 1977, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is _____ of FMC Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission Expires: _____

AGREEMENT AND ASSIGNMENT (the "Assignment") made as of this 24th day of June, 1977, between The Bank of California, N. A., a national banking association, (hereinafter called "Assignor") and Citibank, N. A. (hereinafter called "Assignee");

W I T N E S S E T H:

Whereas, FMC Corporation (hereinafter called "Builder") and SSI Rail Corp., a Delaware corporation (hereinafter called "Railroad,") heretofore entered into a conditional sale agreement made as of June 15, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8374 (hereinafter called "the Conditional Sale Agreement,") providing for the construction, sale and delivery by Builder and the purchase by Railroad of fifty (50) 50' 6" 70-ton capacity, general service, single sheath boxcars numbered APA 1800 through APA 1849 inclusive (hereinafter called "the Equipment");

WHEREAS, Builder has delivered and Railroad has accepted the Equipment; and

WHEREAS, the Conditional Sale Agreement has been amended by a First Amendment and Supplement to Conditional Sale Agreement dated as of July 2, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8374-B (the "First Amendment") (the Conditional Sale Agreement and the First Amendment are hereinafter referred to collectively as the "Conditional Sale Agreement, as amended") and the right, title and interest of Builder in and to the Equipment was sold and assigned to Assignor pursuant to an Agreement and Assignment dated as of July 2, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8374-A; and

WHEREAS, Railroad has paid to Builder on July 6, 1976 the payment specified in subparagraph (a) of the first paragraph of Section 3 of the First Amendment and has paid to Assignor the interest on the Conditional Sale Indebtedness as specified in subparagraph (b) of the first paragraph of Section 3 of the First Amendment; and

WHEREAS, Assignor anticipated that all of its right, title and interest in and to the Equipment would be sold and assigned;

NOW, THEREFORE, in consideration of the premises and the sum of \$1,340,490.40 paid to Assignor by Assignee, the receipt and sufficiency of which are hereby acknowledged, and of the covenants herein set forth, the parties agree as follows:

1. Assignor hereby sells, assigns, transfers and sets over to Assignee, its successors and assigns, the following:

- (a) All the right, title and interest of Assignor in and to the Equipment subject to the Conditional Sale Agreement, as amended; and
- (b) All right, title, interest, powers, privileges and remedies of Assignor in, to and under the Conditional Sale Agreement, as amended (except payments heretofore made by Railroad to Assignor) including all amounts which may be or become due or owing under the Conditional Sale Agreement, as amended on account of the interest becoming due from Railroad under the Conditional Sale Agreement, as amended;

without any recourse, however, against Assignor for or on account of the failure of Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement, as amended.

2. Assignor hereby warrants to Assignee that it has legal title to the Equipment and good and lawful right to sell the same and that its title to the Equipment is free of all claims, liens, security interests or other encumbrances of any nature, except only the rights of Railroad under the Conditional Sale Agreement, as amended.

3. Assignor hereby agrees that it will from time to time at the Request of Assignee make, execute and deliver all such future instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate to give effect to the provisions set forth herein and more perfectly confirm the right, title and interest hereby assigned and transferred to Assignee or intended so to be.

4. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York, provided, however, that the parties shall be entitled to all the rights conferred by Section 20c of the Interstate Commerce Act.

5. This Assignment may be executed in any number of counterparts, but the counterpart delivered to Assignee shall be deemed to be the original counterpart.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Assignment to be executed in their respective corporate names by their duly authorized officers, and their respective corporate seals to be hereunto affixed and attested, all as of the date first above written.

THE BANK OF CALIFORNIA, N.A.

By _____

ATTEST:

Its
[CORPORATE SEAL]

CITIBANK, N. A.

Its

ATTEST:

Its
[CORPORATE SEAL]

Builder agrees that all of the representations, warranties and covenants made to Assignor shall inure to the benefit of Assignee as though Assignee were the original Assignee in the Agreement and Assignment dated July 2, 1976. Neither such Agreement and Assignment nor this Assignment shall subject Assignee to or transfer or pass or in any way affect or modify the obligations and warranties of Builder under the Conditional Sale Agreement, as amended, or relieve Railroad of its obligations to Builder under article 8 of the Conditional Sale Agreement, as amended, it being understood and agreed that notwithstanding this Assignment all obligations of Builder to Railroad shall remain enforceable by Railroad against and only against Builder.

FMC CORPORATION

By William L. Galbraith
Its Division Vice President, Sales

ATTEST:
Charles H. Johnson
Its Ass't. Secretary
[CORPORATE SEAL]

STATE OF CALIFORNIA)
CITY AND COUNTY OF) SS:
SAN FRANCISCO)

On this _____ day of June, 1977, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a Vice President of The Bank of California, N. A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission Expires: _____

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:

On this _____ day of _____, 1977, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a Vice President of Citibank, N. A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission Expires: _____

STATE OF OREGON)
COUNTY OF MULTNOMAH) SS:

On this 30th day of June, 1977, before me personally appeared William R. Galbraith, to me personally known, who, being by me duly sworn, says that he is Div. Vice President, Sales of FMC Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sandra Parshus
Notary Public

[Notarial Seal]

My Commission Expires: _____

My Commission Expires November 4, 1977

STATE OF CALIFORNIA)
CITY AND COUNTY OF) SS:
SAN FRANCISCO)

On this _____ day of June, 1977, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a Vice President of The Bank of California, N. A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission Expires: _____

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:

On this _____ day of _____, 1977, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a Vice President of Citibank, N. A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission Expires: _____

STATE OF OREGON)
COUNTY OF MULTNOMAH) SS:

On this 30th day of June, 1977, before me personally appeared William R. Galbraith, to me personally known, who, being by me duly sworn, says that he is Div. Vice President, Sales of FMC Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sandra Parshus
Notary Public

[Notarial Seal]

My Commission Expires: _____

My Commission Expires November 4, 1977